

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

KEVIN J. HICKS, JR.,

PLAINTIFF

v.

No. 2:04CV336-P-B

**DESOTO COUNTY JAIL, JAMES ALBERT
RILEY, DR. BRAY & SERGEANT RUSSEL**

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

Upon consideration of the file and records in this action, the court finds that the Report and Recommendation of the United States Magistrate Judge dated April 15, 2005, was on that date duly served by mail upon the *pro se* plaintiff at his last known address; that more than ten days have elapsed since service of the Report and Recommendation; and that no objection to the Report and Recommendation has been filed or served by any party. The court is of the opinion that the magistrate judge's Report and Recommendation should be approved and adopted as the opinion of the court. It is, therefore

ORDERED:

1. That the Report and Recommendation of the United States Magistrate Judge dated April 15, 2005, is hereby approved and adopted as the opinion of the court.
2. That the instant case is hereby **DISMISSED** with prejudice for failure to state a claim upon which relief could be granted, counting as a "strike" under 28 U.S.C. §§ 1915 (e)(2)(B)(i) and 1915(g).
3. That this case is **CLOSED**.

THIS, the 18th day of May, 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE